

Atty Markeson, Thomas A., of Wild Carter & Tipton (for Petitioner Philip A. Mounts, Executor)

(1) First and Final Account; and (2) Petition for Settlement of Account; (3) Final Report; (4) and Petition for Approval of Final Report; for (5) Allowance of Attorneys' Compensation; (6) for Allowance of Costs Advanced, and (7) for Final Distribution

DOD: 1/15/2011		PHILIP ANDREW MOUNTS , son and Executor, is	NEEDS/PROBLEMS/COMMENTS:
		Petitioner.	
		Account period: 1/16/2011 – 7/13/2012	Continued from 2/25/2013. Minute Order states counsel requests a continuance.
Cont. from 091812, 102312, 022513		Accounting - \$205,245.13	
		Beginning POH - \$ 96,000.00	Note: Status Statement filed 4/10/2013 by Executor of the Estate, Philip Andrew Mounts, states: <ul style="list-style-type: none"> His First and Final Account filed 8/9/2012 requested an order of the Court that allowed him to retain a condominium for the benefit of the two minor beneficiaries of Decedent's Will; He reconsidered that plan, and on 1/24/2013, the Court granted his petition for an order allowing him to purchase the condominium from the estate; Escrow closed 3/29/2013; He will be amending his petition for final distribution accordingly; His attorney believes he can have the amendment completed within the next week.
<input type="checkbox"/>	Aff.Sub.Wit.	Ending POH - \$100,780.19 (\$5,280.19 is cash)	
<input checked="" type="checkbox"/>	Verified	Executor - waives	
<input checked="" type="checkbox"/>	Inventory	Attorney - \$4,607.35 (exceeds statutory?)	
<input checked="" type="checkbox"/>	PTC	Costs - \$861.00 (filing fees, probate referee, publication)	
<input checked="" type="checkbox"/>	Not.Cred.	Petitioner states:	
<input checked="" type="checkbox"/>	Notice of Hrg	<ul style="list-style-type: none"> The estate real property is a condominium in Fresno, which has been rented and Petitioner has collected rents since April 2011; Petitioner maintained the property and the mortgage is current; Petitioner donated personal property worth ~\$500.00 to charity per Decedent's direction, because the property was deemed to cost more to store than it was worth; Petitioner delivered the remaining personal property to the estate beneficiaries; 	
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<input type="checkbox"/>	Letters	042111	
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<input type="checkbox"/>	Objections		
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~Please see additional page~

Petitioner states, continued:

- Decedent was survived by two grandchildren, both minors, and Decedent's Will passes her entire estate to her two grandchildren, **TAYLOR LORYN MOUNTS** (currently age 16) and **DYLAN JEFFREY MOUNTS** (currently age 14) in equal shares;
- The estate is solvent and is now in a condition to be closed.

Petitioner requests authority to deliver the real property of the estate to himself for the benefit of his children pursuant to the California Uniform Transfer to Minors Act (CUTMA), based upon the following:

- The Decedent owned a condominium at the time of her death with a value of **\$95,000.00**, and the Petitioner does not believe the value has increased significantly, if at all, since the date of Decedent's death (DOD 1/15/2011);
- The balance on the mortgage is about **\$80,000.00**, and if Petitioner was able to find a buyer, the net to the estate would be negligible after costs of sale;
- Because the equity in the property is small and the rents generated just cover expenses, Petitioner does not believe the expense to set up and maintain guardianships of the estate of the minors would be cost effective;
- Accordingly, Petitioner requests an order pursuant to Probate Code § 3906, which authorizes the Court to allow for a transfer to an adult on behalf of a minor in the absence of authorization by a will or trust, if [all of the following are met]:
 1. the personal representative believes the transfer to be in the best interest of the minor;
 2. the transfer is not [prohibited by or] inconsistent with the will or trust; and
 3. the transfer is authorized by the Court if it exceeds **\$10,000.00**. *[Note: Value to each minor will be ~\$47,500.00];*
- Petitioner believes that delivery of the property to [himself to] hold for the benefit of the minors will be in their best interest;
- Petitioner is hopeful that real estate values will increase over time so that the property will have equity;
- Petitioner proposes that he continue to service the mortgage and maintain the property as a rental, and that he continue to collect the rents and otherwise maintain the property;
- Upon each child attaining the age of 18, Petitioner proposes he be allowed to file an ex parte request for an order to turn over ½ of the rental account to the former minor and to distribute ½ of the real property to the former minor.

Petitioner prays for an order:

1. Bringing administration of this estate to a close;
2. Settling, allowing and approving the First and Final Account of Petitioner as Executor;
3. Ratifying, confirming and approving all acts and transactions of Petitioner as Executor;
4. Distributing the real property of the estate to Philip Andrew Mounts under the California Uniform Transfer to Minors Act as custodian for the benefit of Taylor Loryn Mounts and Dylan Jeffrey Mounts, in equal undivided interests as prayed for in the petition;
5. Allowing Petitioner to continue to collect the rents and otherwise maintain the property;
6. Requiring that upon each child attaining age 18, the Petitioner file an ex parte request for an order to turn over ½ of the rental account to the former minor and to distribute ½ of the real property to the former minor;
7. Allowing the statutory fees and reimbursement of costs advanced; and
8. Ordering a lien on the property distributed to the beneficiaries for any unpaid attorney fees.

Petition to Approve and Confirm Acts of Personal Representative to Resolve
Pending Litigation (Prob. C. 9611)

DOD: 11-12-11		JOHN LEONARD , Executor, is Petitioner.		NEEDS/PROBLEMS/COMMENTS:																																																																						
		Petitioner is also Trustee of the Larry M. Ward Living Trust. Petitioner states there are presently pending seven (7) separate actions between Petitioner as Executor and/or Petitioner as Trustee, and Decedent's wife BRENDA WARD as follows:		1. A copy of the agreement is provided at Exhibit 1. The Court may require the original.																																																																						
				Note: The Agreement indicates that the parties will dismiss various outstanding actions, including petitions presently pending in this Estate case, <u>with prejudice</u> .																																																																						
				Brenda Ward's Homestead Petition was continued to 5-24-13 as a "place holder" pending settlement. The Court may wish to set this date as the status date for filing of the various dismissals, or may wish to dismiss the following petitions, <u>with prejudice</u> , on its Court's own motion based on approval of this agreement:																																																																						
				<ul style="list-style-type: none"> Petition to Determine Ownership Interest filed 5-24-12 by Brenda Ward Petition for Family Allowance filed 5-24-12 by Brenda Ward Petition to Confirm Sale of Personal Property filed 10-23-12 by John Leonard Petition for Probate homestead filed 11-13-12 by Brenda Ward 																																																																						
				Examiner's Note: Now that the parties have reached settlement, Counsel should be able to provide an appropriate time frame for concluding the estate.																																																																						
				The Court may set a status hearing for the filing of a petition for final distribution by Executor John Leonard.																																																																						
				Reviewed by: skc																																																																						
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				File 2A - Ward																																																																						
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Petitioner states that following mediation, the parties entered into a Settlement Agreement and Release of All Claims to resolve all of the actions and all other claims which Brenda Ward may have against the estate or trust, and which Petitioner may have against Brenda Ward, attached as Exhibit 1.

Petitioner has entered into the Agreement subject to this court's approval and requests his discharge of the obligations imposed upon him by the Agreement.

Petitioner prays that the court approve and confirm Petitioner's execution of the Agreement and discharge of the obligations imposed upon him by the Agreement, and such other relief be granted as the Court deems just and proper.

Note: The agreement provides, in part, that:

- Brenda Ward has a community property ownership interest in 17% of the value of the 855 shares of KWPH stock held by the Larry Ward Living Trust at the time of Larry Ward's death, which has been sold by the trust to KWPH in exchange for a down payment and payments on a promissory note. **Therefore, the Trust shall make certain transfers to Brenda.** See agreement for details.
Note: A separate petition is filed for the Trust regarding the Agreement. See Page 2B.
- Brenda Ward has a community property ownership interest of at least \$395,500 of additional property owned by Larry Ward, including the estate's 50% general partnership interest in KARD, and the increased compensation which Larry received in 2010, which represented, in some part, a distribution of 2009 accumulated earnings of KWPH. The sum of \$395,500 will be paid as follows:
 - **The Estate** will execute a deed in favor of Brenda for the Estate's one-half community property interest in the real property located at 567 Ocean View, Grover Beach, CA, which has been inventoried and appraised in the Estate at a date of death value of \$245,000.
 - **The Trust** will transfer to Brenda in cash the sum of \$150,500.*Note: A separate petition is filed for the Trust regarding the Agreement. See Page 2B.*
- All parties agree that Leonard's consent to this agreement is subject to Court approval and Leonard will file petitions for such approval with notice of hearing as required by law.
- Upon approval, Leonard will make payments as provided and will dismiss with prejudice the quiet title action in San Luis Obispo County (Recital #7); and Brenda will dismiss with prejudice the actions listed in Recital #1-4, 6, and withdraw her objection to Leonard's proposed sale of KARD listed in Recital #5.
- Leonard will indemnify Brenda from all liabilities of KARD.
- Neither party indemnifies the other from liability for any pending creditor's claims in the estate, including but not limited to claims made by or on behalf of Michael Callahan or the Estate of Michael Callahan.
- The family allowance previously ordered by the Court shall terminate as of 12-31-12. Brenda acknowledges receive of all court ordered family allowance payments for the period December 2011-December 2012.

Atty James M. Bell, Kimberly L. Mayhew, and Darlene A. Kelly (of Caswell Bell & Hillison, LLP,
for John Leonard – Executor)

Petition for Order Approving Successor Trustee's Exercise of Discretion to Settle
Litigation [Prob. C. 17200(b)(5)]

DOD: 11-12-11		<p>JOHN LEONARD, Trustee, is Petitioner.</p> <p>Petitioner states there are presently pending seven (7) separate actions between Petitioner as Executor and/or Petitioner as Trustee, and Decedent's wife BRENDA WARD as follows:</p> <p>8. A petition by Brenda against Leonard as Executor in probate proceeding 12CEPR00007 claiming a community property ownership interest in estate property;</p> <p>9. A petition by Brenda against Leonard as Executor in probate proceeding 12CEPR00007 seeking a family allowance, which was granted by the probate court with an indefinite term;</p> <p>10. A complaint by Brenda against Leonard as Executor in 12CECG02627 on a rejected creditor's claim seeking spousal support for the period between the date Brenda and Larry Ward separated and his date of death;</p> <p>11. A petition by Brenda against Leonard as Executor and Trustee in 12CECG03330 claiming a community property ownership interest in Estate and Trust property, specifically including Larry Ward's stock in K.W.P.H. Enterprises, held in the Larry Ward Living Trust;</p> <p>12. A petition by Leonard as Executor in probate proceeding 12CEPR00007 to confirm the sale of estate property, a general partnership interest in KARD, to which Brenda filed an objection;</p> <p>13. A petition by Brenda against Leonard as Executor in probate proceeding 12CEPR00007 for a probate homestead in decedent's one-half community property interest in residential real property located in Grover Beach, CA;</p> <p>14. A complaint by Leonard as Executor against Brenda for partition of Grover Beach real property in San Luis Obispo County Superior Court Case No. CV 120648</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Pursuant to Local Rule 7.1.2, the Court has assigned a <u>new case number</u> for the Larry M. Ward Living Trust as follows: <u>13CEPR00291</u></p> <p>Going forward, all filings regarding the Larry M. Ward Living Trust should be filed in case number <u>13CEPR00291</u>.</p>	
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	9202			
✓	Order			
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	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Petitioner states that following mediation, the parties entered into a Settlement Agreement and Release of All Claims to resolve all of the actions and all other claims which Brenda Ward may have against the estate or trust, and which Petitioner may have against Brenda Ward, attached as Exhibit 1.

Petitioner has entered into the Agreement subject to this court's approval. The Trust declaration provides that the trustee has the power to compromise or otherwise adjust any claims against or in favor of the Trust.

Because of the size of the trust assets and the broad scope of the Agreement, Petitioner requests that the Court approve and confirm his exercise of his discretion, his execution of the Agreement, and his discharge of the obligations imposed upon him by the Agreement.

Petitioner prays that the court approve and confirm Petitioner's execution of the Agreement and discharge of the obligations imposed upon him by the Agreement, and such other relief be granted as the Court deems just and proper.

Note: The agreement provides, in part, that:

- Brenda Ward has a community property ownership interest in 17% of the value of the 855 shares of KWPH stock held by the Larry Ward Living Trust at the time of Larry Ward's death, which has been sold by the trust to KWPH in exchange for a down payment and payments on a promissory note. **Therefore, the Trust shall make certain transfers to Brenda.** See agreement for details.
- Brenda Ward has a community property ownership interest of at least \$395,500 of additional property owned by Larry Ward, including the estate's 50% general partnership interest in KARD, and the increased compensation which Larry received in 2010, which represented, in some part, a distribution of 2009 accumulated earnings of KWPH. The sum of \$395,500 will be paid as follows:
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 - **The Trust** will transfer to Brenda in cash the sum of \$150,500.
- All parties agree that Leonard's consent to this agreement is subject to Court approval and Leonard will file petitions for such approval with notice of hearing as required by law.
- Upon approval, Leonard will make payments as provided and will dismiss with prejudice the quiet title action in San Luis Obispo County (Recital #7); and Brenda will dismiss with prejudice the actions listed in Recital #1-4, 6, and withdraw her objection to Leonard's proposed sale of KARD listed in Recital #5.
- Leonard will indemnify Brenda from all liabilities of KARD.
- Neither party indemnifies the other from liability for any pending creditor's claims in the estate, including but not limited to claims made by or on behalf of Michael Callahan or the Estate of Michael Callahan.
- The family allowance previously ordered by the Court shall terminate as of 12-31-12. Brenda acknowledges receive of all court ordered family allowance payments for the period December 2011-December 2012.

**Petition for Settlement of Second Account and Report of Trustee and For
Modification**

Lyle E. Schafer DOD: 8-20-10		JANICE BRANUM , successor trustee, is Petitioner. Account period: 01/01/12 – 10/31/12 Accounting - \$2,615,701.30 Beginning POH - \$2,363,349.19 Ending POH - \$2,424,767.01 (all cash)	NEEDS/PROBLEMS/COMMENTS:
Jean M. Schafer DOD: 10/29/12			
Cont. from		Petitioner requests to modify the Trust provisions pursuant to Probate Code §§ 15403 and/or 15409 to authorize the trustee to shorten the period of time the Trust proceeds are held for the benefit of the ultimate beneficiaries of the Trust to allow for an earlier distribution. The dispositive provisions of the Trust, as amended, call for distribution of the balance of the trust estate after the death of the surviving spouse as follows:	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	<ul style="list-style-type: none"> • 16% to Pamela J. Schafer to be distributed in equal annual installments over a five (5) year period • 16% to Marlin L. Schafer to be distributed in equal annual installments over a ten (10) year period • 12% to Joy L. LeBeuf to be distributed in equal annual installments over a ten (10) year period • 10% to Michael J. Kendall to be distributed in equal annual installments over a ten (10) year period • 24% to Janice A. Branum free of trust • 22% to Bradford T. Schafer to be distributed in equal annual installments over a five (5) year period 	
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<input type="checkbox"/>	FTB Notice	Petitioner states that based on conversations she had with Lyle Schafer prior to his death, that he wanted to encourage the beneficiaries to use Petitioner/successor trustee's expertise to assist them in investment and management decisions. This intent led to the mandatory structured distribution scheme. Continued on Page 2	Reviewed by: JF Reviewed on: 04/08/13 Updates: Recommendation: File 3 - Schafer

Notwithstanding the intent expressed by the Trustor, circumstances have changed with respect to the financial circumstances of some of the beneficiaries such that a prolonged distribution scheme stretching over a period of 5-10 years appears to be detrimental to their personal and economic well-being. Additionally, such mandatory oversight is both unnecessary and impractical. All of the beneficiaries are over 40, three are over 60 and one is over 50. Petitioner proposes to modify the holding period from the period specified in the Second Amendment to the Trust to a period not to exceed 6 months from the date of Jean Schafer's death. Each beneficiary has consented to the proposed modification to the terms of the Decedent's Trust pursuant to Probate Code § 15403, as have the Successor Trustee Janice Branum and the alternate Successor Trustee Bradford T. Schafer.

If the Court does not approve the modification of Trust as requested above, Petitioner requests clarification of the dispositive terms in order that the first annual distribution can be made immediately with the second annual distribution to be made on 12/31/13.

Petitioner prays for an Order:

1. Settling, allowing and approving the second account; and
2. Modifying the Trust to provide that the holding period for the subtrusts not exceed six (6) months from Jean Schafer's death.

Goldie Myers DOD: 04/20/98		DORETA RUTH WHITTEN, successor trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:	
Arthur Myers DOD: 03/25/11				
Cont. from		Petitioner states: 1. Trustors Arthur William Myers and Goldie Mae Myers established the ARTHUR WILLIAM MYERS AND GOLDIE MAE MYERS JOINT REVOCABLE LIVING TRUST under the laws of the State of Oregon on 09/14/95 (the "Trust"). 2. Upon relocating to California, Trustors engaged the firm of Russell & Herring to prepare a restatement of the Trust. The complete restatement of Trust was executed on 10/08/97 (the "Restated Trust"). 3. Under the terms of the Restated Trust, Trustor Arthur William Myers was the initial sole trustee and Doreta Ruth Whitten was designated to serve as the sole successor trustee (as was the case in the Trust). 4. After a diligent search, Petitioner has been unable to locate either a copy or the original of the Restated Trust. 5. After the death of the surviving Trustor, Arthur Myers, on 03/25/11, Petitioner began serving as sole successor trustee pursuant to the terms of the Restated Trust. As successor trustee, Petitioner has administered the Restated Trust based in part on the terms summarized by attorney Ann E. Herring in correspondence with Arthur Myers dated 11/01/2000 and in part on handwritten instructive notes from her father, Arthur Myers as follows: - All assets of the Survivor's Trust were distributed ½ to Doreta Ruth Whitten, surviving trustor's daughter, and ½ to Ronnie Gale Myers, surviving Trustor's son. 6. All assets held in the Myers Bypass Trust were to be distributed to Doreta Ruth Whitten. Continued on Page 2		
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Reviewed by: JF

Reviewed on: 04/09/13

Updates: 04/11/13

Recommendation:

File 4 - Myers

7. During her search of her father's papers for the Restated Trust, Petitioner discovered a handwritten letter of instruction regarding the administration of the Restated Trust. Although Petitioner has been advised that this letter may not constitute a legal amendment to the Restated Trust, Petitioner intends to honor the request that the sons of Mr. Myers' deceased daughter, Frieda Fern O'Dea, namely, Michael T. O'Dea and Raymond O'Dea, each receive the cash sum of \$25,000.00. Petitioner believes that no provisions (or instructions) were made for the daughters of Mr. Myers' deceased son, Carol Duane Myers, namely, Kimberly Myers and Diane M. Myers, due to receipt by them of real property at the time of their father's death.

Petitioner prays:

1. The Court make an order determining and ordering that the following are the dispositive terms of the Myers Survivor's Trust: All assets held in the Myer's Survivor's Trust are to be distributed:

- ½ to Doreta Ruth Whitten; and
- ½ to Ronnie Gale Myers.

2. The Court make an order determining and ordering that the following are the dispositive terms of the Myers Bypass Trust: All assets held in the Myers Bypass Trust are to be distributed to Doreta Ruth Whitten.

Declaration of Ann E. Herring, Esq. filed 02/28/13 states:

1. She worked with attorney Robert Zehner at the firm of Russell & Herring in Cameron Park, California. This firm represented Arthur and Goldie Mae Myers, who recently moved from Oregon to California, in their estate planning matters. As part of that representation, her firm prepared a restatement of the Arthur William Myers and Goldie Mae Myers Revocable Living Trust ("Restated Trust") which was executed on 10/08/97.
2. Trustor Goldie Mae Myers died in 1998. In October 2000, surviving Trustor Arthur Myers retained her services to assist him in matters relating to the administration of the Restated Trust. As part of that representation, she had numerous meetings and telephone conversations with Mr. Myers, as well as communication through written correspondence.
3. Based on what was communicated to her and her recollection of the plan as reflected in a letter she wrote to Mr. Myers, the following summarizes the terms of the Restated Trust:
 - Arthur William Myers continued to serve as sole Trustee after the death of Goldie Myers. At the death of Arthur Myers, his daughter, Doreta Whitten, was designated to serve as sole successor trustee and her daughter, Rita June Harris, as the successor trustee in the event that Doreta Whitten was unable to serve.
 - At the death of the first Trustor to die, the assets of the Restated Trust were to be split into two sub-trusts: a Survivor's Trust and a Bypass Trust. The terms of the sub-trusts were as follows:
Survivor's Trust: The surviving Trustor, Arthur William Myers, was to have the absolute right and access to income and principal. The surviving Trustor also retained the right to revoke or amend any portion of the Survivor's Trust. Under the dispositive provisions of the Restated Trust, the sole beneficiaries of the Survivor's Trust were the Surviving Trustor's children, Doreta Ruth Whitten and Ronnie Gale Myers. An amendment to the Survivor's Trust dated 11/07/2000 was prepared by her office which amended the Survivor's Trust to clarify that were either of Doreta Ruth Whitten or Ronnie Gale Myers to predecease the Surviving Trustor, the survivor of them would be entitled to receive the entire balance of the trust estate of the Survivor's Trust. The amendment was drafted based on written instructions of Arthur Myers to change or amend the trusts to provide that the assets were to be received only by his own children, namely, Doreta Ruth Whitten and Ronnie Gale Myers who were living at his death.

Continued on Page 3

Bypass Trust: The sole beneficiary of the Bypass Trust was Doreta Ruth Whitten. It was the stated intention of the Trustor's that Doreta Ruth Whitten received the Trustor's residence. This understanding of the documents and the intent of the Restated Trust is stated in the Surviving Trustor's handwritten letter dated 09/21/2000 (copy attached).

4. After the death of Arthur Myers, Doreta Whitten contacted Ms. Herring in regards to locating a copy of the Restated Trust. Ms. Herring reviewed all of the physical files and computer in her possession and as of the date of this declaration, she has been unable to locate either a physical copy or computer records of the Restated Trust. Ms. Herring states that there are no computer records regarding the Restated Trust due to a hard-drive corruption that completely obliterated all computer files at her prior firm.

5. This declaration correctly summarizes the basic terms of the Restated Trust to the best of Ms. Herring's recollection.

Opposition to Petition for Determination and Clarification of Trust Terms filed 04/11/13 by Diane Myers states:

1. Petitioner has not provided clear, satisfactory and convincing evidence to establish the execution and contents of a lost instrument. Petitioner has not presented adequate or sufficient evidence to clearly demonstrate why Respondent was removed from distribution in the Restated Trust. Petitioner incorrectly states that Respondents father purchased a home from the decedent and did not repay the loan upon Respondents father's death. Petitioner alleges that this is the basis for excluding Respondent from the Restated Trust, however, this allegation is false. Respondent states that the loan to decedent Arthur Myers was repaid upon the sale of the residence. Further, Petitioner uses a letter from attorney Ann Herring to demonstrate the Addendum to the Restated Trust in 2000. In this letter, attorney Herring states if the Addendum reflects Arthur Myers estate planning goals, then he should sign it in front of a notary and provide a copy to attorney Herring's office. This letter does nothing to indicate that Arthur Myers in fact signed the Addendum, but rather that he should sign it if it reflected his estate planning goals. It is extremely speculative to use a letter sent to Arthur Myers enclosed with the Addendum to show his true intent versus a letter reflecting that attorney Herring's office had received the signed Addendum.
2. The Evidence Petitioner provides to support her claims is not satisfactory or convincing. Petitioner uses attorney Herring's declaration to help establish what the Restated Trust terms were. Herring indicate she used her recollection. Herring did not specify particularly what was communicated to her in her declaration. She is basing the declaration on work she performed over 12 years ago and does not provide any satisfactory or convincing evidence as to the contents of what was included in the Restated Trust. Basing a declaration off of an event that took place over 12 years ago and a signature page of a Restated Trust is absolutely not satisfactory or convincing evidence as to what the contents of the Restated Trust were.
3. Pursuant to Evidence Code § 1521(a)(1) the court shall exclude secondary evidence of content of writing because there is a material dispute as to the terms. Per Evidence Code § 1521(a)(1), "secondary evidence of content of writing should be excluded if the court determines there is a genuine dispute concerning material terms of the writing and justice requires the exclusion." There is a two-step analysis that is made before admitting secondary evidence: 1) Authentication and 2) Determination. There is no evidence in the pleadings of Authentication. Even if a writing can be authenticated, Evidence Code § 1521(a) compels the court to exclude secondary evidence such as a copy of the writing, if the court determines either "1) There is a dispute concerning the material terms of the writing, and 2) justice requires exclusion, or 3) the admission of the secondary evidence would be unfair." These three determinations apply in this case. In People v. Garcia (1988) 201 Cal. App. 3d 324,330,

Continued on Page 4

the court found that the claim of unfairness under Evidence Code § 1521(a)(3) "must be based on substance, not mere speculation that the original might contain some relevant difference". There is a range of facts the court can consider when deciding whether admitting secondary evidence would be unfair, including, "whether the writing is central to the case or collateral" (Recommendation on Best Evidence Rule (Nov. 1996) 26 California Law Revision Commission Report (1996) pages 392-393). The admission of a copy of the Trust would be unfair. The original is unavailable and no one in this case has ever been able to determine what happened to the original. The Trust is absolutely essential to Petitioner's case. There is a definite dispute regarding the material terms of the Trust.

Respondent prays for an Order:

1. Denying the Petition in its entirety.

DOD: 12/21/2012		SHARLENE BATTAGLIA and JAMES BATTAGLIA are Petitioners.	NEEDS/PROBLEMS/COMMENTS: 1. Fee Waiver of James Battaglia was denied. Therefore a filing fee of \$435.00 is due for the filing of this petition. 2. Petition requests a family allowance of \$750.00 however the pray of the Petition does not state a specific amount. 3. A Request for Special Notice was filed by Laura Woodward on 3/6/13. 4. Need order. Local Rule 7.1.1 F states a proposed order shall be submitted with all pleadings that request relief. If the proposed Order is not received in the Probate Clerk's Office tem (10) days before the scheduled hearing, a continuance may be required.
		DOUGLAS SCHORLING, GAYDEN SCHORLING and ROBERT SHAW were appointed Co-Administrators with Limited IAEA Authority and without bond on 2/7/2013.	
Cont. from		Petitioners allege they are entitled to inherit from the Decedent under the principles of equitable adoption. (See page 5 B of this calendar.)	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	As described herein, Petitioners are in need of and are entitled to reasonable allowance from the property of the decedent's estate for their maintenance during the administration of the estate. Petitioners were 100% reliant on support from the Decedent for over a decade and are left completely without income or ability to support themselves.	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	Petitioners' net income from sources other than the estate is \$0 per month.	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioners' estimated expenses are: Food \$300.00 Utilities \$250.00 Auto \$100.00 Personal care \$ 50.00 Telephone \$ 50.00	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.	The Decedent's estate should pay \$750.00 per month to Petitioners as a family allowance.	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	Petitioners pray for an order authorizing and directing Administrators to pay Petitioners, for their maintenance the sum of ?? every month from the date of Decedent's death until an order for final distribution is entered or until further order of the court.	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters	Please see additional page	
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Objections to Petition for Family Allowance filed by Administrators Robert Shaw, Gayden Schorling and Douglas Schorling on 4/11/13. Objectors state petitioners are not persons who are eligible for a family allowance under Probate Code §6540. The Petitioners have filed a Petition to Determine Entitlement claiming to be the equitably adopted children of the decedent. However, as clearly shown in the Statement of Interest, The Declaration of Robert Shaw in Opposition to Petition to Determine Entitlement, the Declaration of Douglas Schorling in Opposition to Petition to Determine Entitlement and the Points and Authorities in Opposition to Petition to Determine Entitlement, the Petitioners are not children of the decedent under Probate Code § 6454 nor were they equitably adopted by the decedent under Probate Code §6455. Consequently, the Petitioners were not the children of the decedent within the meaning of Probate Code §6450 and are therefore not entitled to a family allowance under California Law.

Wherefore, Objectors request:

1. An Order of the Court denying the Petitioner, and
2. For all other orders the Court considers proper.

DOD: 12/21/2012		SHARLENE BATTAGLIA and JAMES BATTAGLIA are Petitioners.	NEEDS/PROBLEMS/COMMENTS:
		DOUGLAS SCHORLING, GAYDEN SCHORLING and ROBERT SHAW were appointed Co-Administrators with Limited IAEA Authority and without bond on 2/7/2013	1. Fee Waiver of James Battaglia was denied. Therefore a filing fee of \$435.00 is due for the filing of this petition. 2. A Request for Special Notice was filed by Laura Woodward on 3/6/13. 3. Need order. Local Rule 7.1.1 F states a proposed order shall be submitted with all pleadings that request relief. If the proposed Order is not received in the Probate Clerk's Office ten (10) days before the scheduled hearing, a continuance may be required.
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	W/	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.	X	
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	X	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Petitioners state they are entitled to inherit from the Decedent under the principles of equitable adoption. Petitioners allege they were accepted and treated as natural children of the decedent since approximately 1998, over 14 years ago.</p> <p>Petitioners state their mother dated the Decedent briefly. When they started dating Sharlene was 14 years old and James was 8. When that relationship ended Petitioners stayed with and were raised by the Decedent. Petitioners' mother was a drug addict and was often in and out of jail. Petitioner's father had been in prison most of her life. Petitioners filled the place of a natural born child of the Decedent and fairness and equity demand that they inherit the Decedent's property.</p> <p>"Courts, in their effort to protect and promote the welfare of the child, have given effect to a contract to adopt, where it has been fully performed on the part of the child, although it was invalid under the laws where it was made." (Estate of Grace, 88 Cal.App.2d 956 at 963 P.2nd 189).</p> <p>Please see additional page</p>	
		Reviewed by: KT Reviewed on: 4/10/13 Updates: Recommendation: File 5B - Marden	

In the Estate of Rivolo, 194 Cal.App.2d 773, 15 Cal.Rptr. 268. (An orphan) child was raised and treated in all respects by the adult contracting parties as their natural child. Upon their death, intestate, the child was awarded their entire estate. Affirming the trial court, the reviewing court stated: "(l)† is well established that equity will specifically enforce an oral contract to adopt or a contract of inheritance that part performance will take the contract out of the statute of frauds."

Petitioners state they need not prove all elements of an enforceable contract to succeed on an equitable adoption claim but must only demonstrate the "existence of some direct expression, on the Decedent's part, of an intent to adopt" and that the Decedent acted consistently with this intent by forming "a close and enduring family relationship" (Estate of Ford, 32 Cal.4th at 171-172, 8 CR3d at 549).

Petitioners state that at all times they were treated like the children of the Decedent, relied on the Decedent for food, clothing and shelter far past their minority and in to their majority. Petitioners spent all their time together, where the only family present at birthdays, holidays, births, illnesses, etc. Petitioners changed their position in reliance on an oral agreement between Petitioners and Decedent that Petitioners were the children of the Decedent. Petitioners provided love, support and companionship and fully performed their duties as children of the Decedent. Equity demands that Petitioners be recognized as the children of the Decedent for inheritance purposes.

Petitioners request the Court determine that:

1. Petitioners Sharlene Battaglia and James Battaglia are entitled to distribution of the assets of the estate of Ronald Marden.
2. Petitioners Sharlene Battaglia and James Battaglia are entitled to finalize the probate of the estate of Ronald Marden having priority and being legally entitled to the assets of the estate.

Points and Authorities in Opposition to Petition to Determine Entitlement filed by Robert Shaw, Cheryl Ruben, Bobbi Schorling, Gayden Schorling and Douglas Schorling on 4/11/13. Objectors state the Petition contains numerous factual inaccuracies and, more importantly, the Petitioners have failed to provide a scintilla of evidence supporting their allegations. Contrary to the Petitioners' allegations, Ronald E. Marden ("decedent") never accepted and treated the Petitioners as his natural children. The decedent never referred to the Petitioners as either "his daughter" or "his son," or "his adopted daughter" or "his adopted son," or any similar words or phrases. Moreover, the decedent did not include the Petitioners when he was with other people and never brought them around his family or held them out as his family. In addition, neither of the Petitioners ever adopted the decedent's surname. In the pleadings that decedent filed with the Fresno Superior Court in 2007 when he obtained a domestic violence restraining order against Petitioner Sharlene Battaglia, he referred to his relationship with Sharlene as simply "we live together" and he referred to James Battaglia as only a "friend." It is extremely telling that the decedent did not describe either of the Petitioners as his children or even as his relatives.

The Petition is also inaccurate when it states that the decedent dated the Petitioner's mother. Their mother and the decedent never "dated." Rather, the Petitioner's mother was a prostitute whose services were utilized from time to time by the decedent, who was extremely socially awkward. It is also not true, as alleged in the Petition that Petitioners lived continuously with Ron starting in 1998. The Petitioners lived in foster homes until reaching the age of majority and after reaching the age of majority they did not always live with Ron, but sometimes lived in separate rental properties. In addition, Sharlene Battaglia did not live with the decedent after the restraining order was issued in 2007 and on at least one occasion the decedent changed the locks on the house in order to intentionally deprive the Petitioners access to his house.

Please see additional page

Points and Authorities in Opposition to Petition to Determine Entitlement filed by Robert Shaw, Cheryl Ruben, Bobbi Schorling, Gayden Schorling and Douglas Schorling on 4/11/13 (cont.):

The assertion in the Petition that the decedent intended to adopt the Petitioners is completely false. Not only did the decedent never express any intention to adopt the Petitioners, he affirmatively stated that he had no intention at all of adopting "those two." Moreover, even assuming arguendo that some legal barrier to an adoption existed at some point in time, any such legal barrier evaporated when the Petitioners reached the age of 18, which happened approximately 12 years ago for Sharlene and 7 years ago for James. In those 12 years there was never an attempt whatsoever by the decedent to adopt either of the Petitioners. Indeed, the allegation that the decedent intended to adopt the Petitioners is patently ridiculous given their extensive history of criminal activity and Sharlene Battaglia's long history of committing both physical and financial abuse against the decedent.

There is no evidence whatsoever that the decedent ever had any intent that the Petitioners inherit from his estate, the vast majority of which consists of assets that have either been in the decedent's family for three generations or are proceeds from property that was in the decedent's family for three generations. Moreover, on 11/26/12, less than one month before his death, the decedent withdrew \$220,000 from his account at B of A and deposited into a new account at Union Bank. The decedent set up this new account as a "pay on death" account and named his first cousin Robert Shaw as the beneficiary of the account. Although he could have named the Petitioners as beneficiaries of this account, he affirmatively chose not to do so and this is extremely strong evidence that the decedent did not intend for Petitioners to share his estate.

Legal arguments:

Objector's allege the legal arguments set forth in the petition are confusing because it argues a theory of equitable adoption under Probate Code § 6454. That code section does not deal with equitable adoption, which is dealt with under Probate Code §6455, a section which is never even cited by the Petition. In light of the confused nature of the Petition the Points and Authorities address both Sections 6454 and 6455 and will clearly demonstrate that neither of those Code Sections is applicable under the facts of this case.

Probate Code §6454 provides that a stepchild or foster child can be treated as a child of the decedent for purposes of intestate succession only in extremely limited circumstances.

The Petitioners fail to satisfy the requirements of subsection (a) of Probate Code 6454 because they were never the stepchildren or foster children of the decedent and no such allegation has even been made by the Petitioners. Objections cite *Estate of Joseph*, 17 Cal.4th 203, 70 Cal.Rptr2d 619, 949 p.2d 472 (1998). The Estate of Joseph decision is directly on point: "at death, the foster child or stepchild might have been a friend to the foster parent or stepparent. But a friend, as such, is not an heir . . . a parent-child relationship will be deemed to exist only in exceptional circumstances." (17 Cal.4th 213).

Petitioners do not satisfy any of the legal requirements necessary to establish an equitable adoption as referenced in Probate Code §6455. "A so-called 'equitable adoption' is no more than a legal fiction permitting specific performance of a contract to adopt." (*Estate of Stewart*, 122, App.3d 625, 627-628 (1981)). In this case, it is crystal clear there was never a contract to adopt and, therefore there are no grounds whatsoever for imposing the legal fiction of equitable adoption.

Please see additional page

In the Estate of Ford, 32 Cal 4th 160 (2004), a unanimous California Supreme Court ruled that “no equitable adoption is shown unless the parties’ “conduct and statements clearly and convincingly demonstrate an intent to adopt.” (32 Cal 4th 163). In this case, not only is there no evidence whatsoever, let alone clear and convincing evidence, of any intent by the decedent to adopt the Petitioners. Moreover, the unanimous California Supreme Court went on to conclude in Estate of Ford that “the California law of equitable adoption, which has rested on contract principles, does not recognize an estoppel arising merely from the existence of a familial relationship between the decedent and the claimant. . . [T]he claimant must demonstrate the existence of some sort of direct expression, on the decedent’s part, of an intent to adopt the claimant” (32 Cal4th 170, 171). Not only is there no evidence whatsoever of a direct expression by the decedent of an intent to adopt the Petitioners, the decedent directly expressed that he had no intent at all of ever adopting “those two.”

As stated in Estate of Ford, the doctrine of equitable adoption is an “extraordinary equitable intervention” the need for which “should appear clearly and unequivocally from the facts” (32 Cal.4th 172), and cannot be imposed absent “a statement or act by the decedent unequivocally evincing the decedent’s intent to adopt” (32 Cal.4th 171). In this case, not only is there no clear and unequivocal evidence of any intent by the decedent to ever adopt the Petitioners, there is no evidence whatsoever of any such intent. In fact, decedent’s intent was just the opposite, i.e., he directly expressed that he has no intent at all of ever adopting “those two.”

It is absolutely clear that the Petitioners have wholly failed to “prove the decedent’s intent to adopt by clear and convincing evidence” as required by the Estate of Ford. Accordingly, Petitioners have completely failed to establish the elements required for the imposition of the “extraordinary equitable intervention” of equitable adoption and, as such, the Petitioners are not entitled to inherit from the decedent under that theory or Probate Code §6455.

For all the reasons stated in the pleadings, this Court should deny the Petition and issue an Order determining that the Petitioners are not heirs of the decedent under Probate Code §6450-6455 and were not equitably adopted by the decedent.

Declaration of Robert Shaw in Opposition to Petition to Determine Entitlement filed on 4/11/13. Robert Shaw states he is the first cousin of decedent, Ronald Marden (“Ron”) and is one of the heirs of the estate. Mr. Shaw states he knew Ron his entire life up until his death. While Ron had good and loving relationships with all of his maternal first cousins, Mr. Shaw states he was the person who was closest to Ron.

Contrary to the allegations in the Petition, their mother and Ron never “dated.” Rather, the Petitioners mother was a prostitute whose services were utilized from time to time by Ron. Mr. Shaw states that he never heard Ron refer to the Petitioners as either “his daughter” or “his son,” or “his adopted daughter” or “adopted son” or any similar words or phrases. In fact, in the considerable time Mr. Shaw spent with Ron during his life, he never once met Sharlene Battaglia until the day of Ron’s death. This is because Ron did not include the Petitioners when he was with other people and never brought them around his family or held them out as his family.

Mr. Shaw states that on more than one occasion he asked Ron if he had any intention of ever adopting the Petitioners. His answer to this question was always the same: he would laugh and then say, “oh no, I’m not going to adopt those two.”

Please see additional page

Declaration of Robert Shaw in Opposition to Petition to Determine Entitlement (cont.): The older the Petitioners became, the more Ron's feelings toward them deteriorated. Ron even expressed disgust with the fact that the Petitioners consistently refused to seek employment despite the fact that Ron wanted them to. Mr. Shaw states Ron often told him that Petitioner James Battaglia spent every day drinking alcohol and playing on the computer. Mr. Shaw states that Ron often told him that Petitioners both bluntly stated to him that they would never get jobs as long as they could sponge off of him. Ron also frequently mentioned that both of the Petitioners had violent tempers and had caused extensive damage to his house.

Mr. Shaw states that on one occasion he asked Ron why he did not simply change the locks on his house so that the Petitioners could not continue to live with him. He replied that he had tried that once and the Petitioners gained access to his house by illegally breaking into it. When Mr. Shaw would ask Ron his question on subsequent occasions he would always reply that trying to lock them out would "just make things worse" for him.

Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 09/26/2012		JILL A. LAIRD , spouse/named executor without bond, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
Cont. from		Full IAEA – o.k.	
	Aff.Sub.Wit.	s/p	
✓	Verified		1. Trustee of the Brian and Jill Laird Family Trust not listed on #8 of the petition.
	Inventory		
	PTC		
	Not.Cred.		2. Need notice to the Trustee of the Brian and Jill Laird Family Trust.
✓	Notice of Hrg		
✓	Aff.Mail	w/	
✓	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Estimated Value of the Estate:
Personal Property - \$310,000.00

Residence: Clovis
Publication: The Fresno Bee

Probate Referee: Steven Diebert

Note: If the petition is granted status hearings will be set as follows:

- **Friday, 09/13/2013 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal and
- **Friday, 06/13/2014 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

Reviewed by: LV
Reviewed on: 04/08/2013
Updates:
Recommendation:
File 6 – Laird

Margaret Mitchell DOD: 9-17-09		SUSAN MITCHELL and ROBERT SMITTCAMP, Co-Trustees, are Petitioners.	NEEDS/PROBLEMS/COMMENTS:
William Mitchell DOD: 4-27-11			
		Account period: 10-1-11 through 10-31-12	1. Notice of Hearing was sent to beneficiary Gail Burson " <u>c/o</u> " Attorney Tracy A. Agrall, Esq., of Wild, Carter & Tipton. However, <u>direct</u> notice is required per Probate Code §1214 (notice to be sent to attorney " <u>also</u> ") and Cal. Rules of Court 7.51(a). The Court may require continuance for appropriate notice or waiver of notice of hearing by Ms. Burson.
		Accounting: \$ 518,833.66 Beginning POH: \$ 509,320.37 (cash plus note receivable) Ending POH: \$ 55,754.40 (cash plus mineral interests in Nevada County of nominal value)	
	Aff.Sub.Wit.	Petitioners state on or about October 2011, the Co-Trustees provided a first accounting to the beneficiaries for the period 4-28-11 through 9-30-11, together with a proposed distribution. All beneficiaries consented to distribution and there are no issues pending regarding that account.	
✓	Verified		
	Inventory	Distributions during this account period consisted of cash and note payable to each beneficiary.	
	PTC		
	Not.Cred.	Petitioners pray for an order:	
✓	Notice of Hrg		
✓	Aff.Mail	1. Settling, allowing, and approving the Account; 2. Ratifying, confirming and approving all acts and transactions of the Co-Trustees relating to matters reflected in the Account, and 3. For such other and further order or orders as the Court may deem appropriate.	
	Aff.Pub.		
	Sp.Ntc.	Reviewed by: skc	
	Pers.Serv.		
	Conf. Screen	Reviewed on: 4-9-13	
	Letters	Updates:	
	Duties/Supp	Recommendation:	
	Objections	File 7 - Mitchell	
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

**Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 02/17/2013		DONNA SILVA , friend/named executor without bond, is petitioner. Full IAEA – o.k. Will dated: 02/17/1999 Residence: Sanger Publication: The Sanger Herald <u>Estimated Value of the Estate:</u> Personal property - \$510,000.00 Real property - \$85,000.00 Total: - \$595,000.00 Probate Referee: Rick Smith	NEEDS/PROBLEMS/COMMENTS: 1. #2d (1) or (2) is not marked regarding bond. 2. Need Notice of Petition to Administer Estate. 3. Need proof of service of Petition to Administer Estate on the following: <ul style="list-style-type: none"> • Katherine Sinclear • United States Navy Memorial Foundation • Ronald Silva • Michael Hopper (Nephew) • Michael Hopper (Great Nephew) Note: If the petition is granted status hearings will be set as follows: <ul style="list-style-type: none"> • Friday, 09/13/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u> • Friday, 06/13/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			s/p
✓	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			x
<input type="checkbox"/>	Aff.Mail			x
✓	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
✓	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
Reviewed by: LV				
Reviewed on: 04/08/2013				
Updates:				
Recommendation:				
File 8 - Molder				

Status Hearing Re: Filing of the First Account or Petition for Final Distribution

DOD: 7/11/10		<p>JONATHAN BEYER was removed as Administrator and PUBLIC ADMINISTRATOR was appointed on 8-15-12.</p> <p>I&A filed 2-28-11 reflects a total estate value of \$353,473.00, including \$67,773.00 cash, real properties, a vehicle, furnishings and personal effects, and a sole proprietorship ("Boxcar Cafe").</p> <p>Prior status hearings, including Orders to Show Cause for non-appearance, etc., were held on 11-9-11, 1-25-12, 3-14-12, 4-25-12, 6-6-12, and 8-15-12.</p> <p>On 8-15-12, the former Administrator was not present. The Court removed Mr. Beyer as Administrator based on his failure to fulfill his duties and appointed the PUBLIC ADMINISTRATOR. Letters issued on 9-28-12.</p> <p>Status Report filed 11-9-12 by Public Administrator states that Jonathan Beyer told Deputy Public Administrator Noe Jimenez that the bank account was closed and used to pay creditor's claims; however, they were not claims that were filed with the court. However, no proof has been provided. It is also unknown what happened to other assets, including a vehicle and personal effects. The real properties were owned in joint tenancy and therefore passed upon the decedent's death to Douglas Beyer and should not have been inventoried. More time is needed to research the estate. Public Administrator requests 90 days.</p> <p>Status Report filed 2-6-13 states Mr. Beyer reported that his paralegal had documentation to show what happened to the money and would send it to the Public Administrator, but, to date, that has not happened. So, the Public Administrator still needs details regarding the accounts and claims. In addition, no explanation has been given as to what happened to the vehicle or other items included in the I&A. The Public Administrator has neither received any assets that were purported to belong to the estate nor any documentation regarding the disposition of the estate.</p> <p>The Public Administrator seeks instruction from the Court.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>OFF CALENDAR</u></p> <p>Petition for final distribution filed 4-4-13 is set for hearing on 5-8-13</p>
Cont. from 081512, 111312, 021113			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
✓ Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: skc

Reviewed on: 4-8-13

Updates:

Recommendation:

File 9 - Beyer

Probate Status Hearing Re: Filing Inventory and Appraisal

DOD: 11/17/11		JUDY TOLER , daughter, was appointed Executor without bond on 08/02/12. Letters were issued on 08/23/12.	NEEDS/PROBLEMS/COMMENTS:
		Minute Order from 08/02/12 set this matter for status re: filing the Inventory & Appraisal on 12/07/12.	<u>CONTINUED FROM 03/01/13</u> Minute order from 03/01/13 states: No appearances. The Court notes for the minute order that there is no status report and there are assets that require appraisal. The Court further notes that a complete inventory is needed. Matter is continued to 04/15/13. The Court orders Myron Smith to be personally present on 04/15/13.
Cont. from 120712, 030113			
<input type="checkbox"/>	Aff.Sub.Wit.	Inventory & Appraisal filed 02/08/13 - \$62,465.69.	As of 04/08/13, nothing further has been filed and the following notes remain:
<input type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		1. Inventory & Appraisal filed 02/08/13 is not marked in the caption indicating whether this is a partial inventory or final (or otherwise marked). There are several items listed on attachment 2 that require appraisal by the probate referee that are not appraised; therefore, it appears that this is a partial inventory and appraisal. Need clarification and Final Inventory & Appraisal.
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		Note: A copy of the Minute order was mailed to Myron Smith on 03/01/13.
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		Reviewed by: JF
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		Reviewed on: 04/08/13
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		Updates:
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		Recommendation:
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		File 10 - Barnes
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
<input type="checkbox"/>			

Age: 4 years		TEMPORARY EXPIRES 04/15/13		NEEDS/PROBLEMS/COMMENTS:	
		KA LEE and KA XIONG , maternal aunt and uncle, are petitioners.		1. Need proof of personal service of the Notice of Hearing along with a copy of the petition 15 days prior to the hearing <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence on: a. Unknown father	
		Father: UNKNOWN		2. Need proof of service by mail of the Notice of Hearing along with a copy of the petition 15 days prior to the hearing <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence on: b. Unknown Paternal grandparents	
Cont. from		Mother: NOU LEE – <i>Personally served on 03/20/13</i>		3. Temporary and General Petitions were not signed by the attorney.	
	Aff.Sub.Wit.		Paternal grandparents: UNKNOWN	4. Need UCCJEA.	
✓	Verified		Maternal grandfather: TOU LEE		
	Inventory		Maternal grandmother: MOR XIONG		
	PTC		Petitioners state the minor has been in their care since before she was two years old, when mom moved to Colorado. Mom would call randomly and request to talk to the minor, but never visited with her. Last week she called and stated she would be coming to pick up the minor and take her back to Colorado with her. She has not seen the minor in a long time and they feel it would be a detriment to the child if her mother takes her away from them.		
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	w/			
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.	w/			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA	x			
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 04/09/13	
				Updates: 04/11/13	
				Recommendation:	
				File 11 - Yangchungchen	

Atty Miranda, Daniel (pro per – father/Petitioner)

Atty Miranda, Maria Elena (pro per – mother/Petitioner)

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820,
1821, 2680-2682)

Age: 18		<u>NO TEMPORARY REQUESTED</u>		NEEDS/PROBLEMS/COMMENTS:	
		DANIEL MIRANDA and MARIA ELENA MIRANDA , parents, are Petitioners, and request appointment as co-conservators of the person with medical consent powers.		<u>CONTINUED FROM 03/18/13</u>	
		Declaration of Dmitri De La Cruz, M.D. supports request for medical consent powers.		Voting rights affected, need minute order.	
Cont. from 031813		Voting rights affected.		Court Investigator advised rights on 03/05/13.	
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	w/			
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
✓	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA				
✓	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 04/08/13	
				Updates:	
				Recommendation:	
				File 12 - Miranda	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 5 mos.	TEMPORARY EXPIRES 04/15/13	NEEDS/PROBLEMS/COMMENTS:
	MELISSA JENEE CARPENTER , non-relative, is Petitioner.	1. Need <i>Notice of Hearing</i> for the hearing on the General Petition (04/15/13 hearing date).
	Father: JONATHAN ANDREW SEWARD, SR.	2. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or <i>Consent & Waiver of Notice</i> or <i>Declaration of Due Diligence</i> for:
Cont. from	Mother: CONNIE ZIMMERMAN	- Jonathan Seward, Sr. (father)
Aff.Sub.Wit.	Paternal grandfather: NOT LISTED	- Connie Zimmerman (mother)
✓ Verified	Paternal grandmother: BRENDA RUSH (father's foster mother)	
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	x	3. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or <i>Consent & Waiver of Notice</i> or <i>Declaration of Due Diligence</i> for:
Aff.Mail	x	- Paternal Grandfather
Aff.Pub.		- Brenda Rush (paternal grandmother)
Sp.Ntc.		- Maternal grandfather
Pers.Serv.	x	- Maternal grandmother
✓ Conf. Screen	Petitioner alleges that the father is her foster brother. She states that both parents are mentally unstable, use drugs and cannot care for the child. Petitioner states that the child when she got the child he was being neglected. CPS has been involved and has told the parents that if they do not allow Petitioner to get guardianship then the child would be placed in foster care. Petitioner states that the mother has been 5150d twice and was having thoughts of harming herself and the child. Further, the father suffers from PTSD and does not have a stable home, he moves from place to place.	Note: Petitioner filed a Notice of Hearing regarding the temporary hearing (02/27/13) and proofs of service. The proofs of service were signed by Petitioner indicating that she provided the notice. Notice must be mailed and/or personally served by a non-party to the action over the age of 18, therefore any service that was completed (if done by Petitioner) is invalid.
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
CI Report	x	
9202		
✓ Order		
Aff. Posting		Reviewed by: JF
Status Rpt		Reviewed on: 04/09/13
✓ UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 13 - Seward
	Court Investigator JoAnn Morris filed a report on – NEED CI REPORT.	

Atty

Boyett, Deborah K. (for David R. Springer – Husband – Petitioner)

Atty

Walters, Jennifer (Court appointed for proposed Conservatee)

Petition for Appointment of Temporary Conservatorship of the Person

Age: 70		TEMP GRANTED EX PARTE EXPIRES 4-15-13	NEEDS/PROBLEMS/COMMENTS:
		GENERAL HEARING 5-7-13	Court investigator advised rights on 4-3-13 1. Need proof of personal service of Notice of Hearing with a copy of the temp petition at least five court days prior to the hearing on the proposed Conservatee Marilyn Faith Springer per Probate Code §2250(e). <u>Note:</u> Order was previously signed ex parte. If temporary letters are extended, attorney should prepare and submit to Probate Clerk's Office after the hearing.
	Aff.Sub.Wit.	DAVID R. SPRINGER , Husband, is Petitioner and requests appointment as Temporary Conservator of the Person. Petitioner states on 3-10-13 the proposed Conservatee suffered a physically and mentally debilitating stroke. Thereafter, on 3-18-13, she was returned to the emergency room and admitted to the hospital. She was also then diagnosed with severe dementia. She was discharged to Golden Living Center in Fowler, a skilled nursing facility, where her long term care needs are being met. The proposed Conservatee has suffered a series of strokes over the past year and is now visually impaired and verbally disabled. She has difficulty comprehending and responding to conversation. She suffers from paralysis and requires assistance walking or standing. She is unable to provide for her own needs such as cooking, bathing, and dressing. Court Investigator Charlotte Bien filed a report on 4-4-13.	
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.	x	
	Conf. Screen		
	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: skc	
		Reviewed on: 4-9-13	
		Updates:	
		Recommendation:	
		File 14 - Springer	